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Margaret A. Roy, Senior Attorney

April 29, 2020

Catherine Chiccine
Attorney-Advisor
Environmental Protection Agency Region 7
11201 Renner Blvd
Lenexa, KS 66219

Subject: Council Bluffs, Iowa, manufactured gas plant site
Citizens Gas & Electric Company Superfund Site (IAD984589093)

Dear Ms. Chiccine:

This responds to your oral request for certain historical documents related to the documents MidAmerican Energy Company ("MidAmerican") provided in MidAmerican's April 3, 2020, letter to the Environmental Protection Agency ("Letter"). Your requests and the responses are provided below:

1. The exhibits to the Iowa Power and Light Company - Omaha Electric Committee's Agreement for the purchase of Western Iowa Power Company dated February 11, 1949 ("Agreement").

This Agreement was provided in the Letter as exhibit 9. The Agreement has five exhibits (A-E) and they are attached hereto. (Attachment 1)

2. Western Iowa Power Company ("WIP") minutes dated December 2, 1946.

You asked whether the copy of the minutes provided in the Letter as exhibit 7 was the full copy of those minutes. I located those minutes and found nothing additional.

3. Agreements signed by WIP.

You asked for agreements executed by WIP, particularly with the Omaha Electric Committee. I found no such documents. At most, I located an electric power purchase agreement between WIP and Nebraska Power Company dated November 30, 1946. I found no relevant information in it but attach it hereto in response to your request. (Attachment 2)

Also attached for your information is a November 26, 1948, letter from what appears to be Iowa Power and Light Company's outside counsel to the president of Iowa Power and Light Company. (Attachment 3). I was not able to discern the reason for the inquiry. Obviously Iowa Power and Light Company did not own and knew little about Council Bluffs Gas Company at the time and I found no evidence that it subsequently acquired Council Bluffs Gas Company.

MidAmerican reiterates its denial of liability at this site. If you have any questions, please feel free to contact me.

Sincerely,


Peg Roy
Senior Attorney

Attachments

BALANCE SHEET WESTERN IOWA POWER COMPANY

At September 30, 1948

		ASSETS AND OTHER DEBITS	This Date
Utility Plant	Utility plant—Beginning of year		\$3,386,369.46
	Utility plant—Net additions during current year		8,034.60
	Total utility plant completed		\$3,394,404.06
	Expenditure requisitions—Construction work in progress		\$ 414,204.07
	Construction contract advances		
	Total construction work in progress		\$ 414,204.07
	Total utility plant		\$3,808,608.13
Investments and funds	Other physical property		
	Investments in associated companies		
	Other investments		
	Sinking funds		
	Miscellaneous special funds		
	Total investments and fund accounts		
Current and Accrued Assets	Cash		\$ 180,844.91
	Special deposits—Interest special deposits		
	Working funds		1,500.00
	Temporary cash investments		
	Notes receivable		
	Accounts receivable—Customers		123,909.83
	Accounts receivable—Other		8,502.30
	Notes receivable from associated companies		
	Accounts receivable from associated companies		
	Interest and dividends receivable		
	Rents receivable		
	Material and supplies		48,709.67
	Prepaid taxes		
	Other prepayments		670.13
	Other current and accrued assets		464.54
	Total current and accrued assets		\$ 361,401.40
Deferred Credits	Unamortized debt discount and expense		\$ 3,435.52
	Extraordinary property losses		
	Preliminary survey and investigation charges		
	Clearing accounts		
	Expenditure requisitions—Retirement work in progress		15,455.56
	Other work in progress		
	Other deferred debits		
	Total deferred debits		\$ 18,891.08
Cap Stk Exp	Capital stock expense		
	Total capital stock expense		
Reacq Cap Stk	Reacquired capital stock—		
	Total reacquired capital stock		
	Contra assets		
	Totals		\$4,188,900.61

BALANCE SHEET
WESTERN IOWA POWER COMPANY
At September 30, 1948

		This Date
LIABILITIES AND OTHER CREDITS		
Capital Stock	Common (Par value)	\$ 50,000.00
	Preferred (Par value)	
	Preferred (Par value)	
	Total capital stock	\$ 50,000.00
Debt Long-Term	Bonds (net)	
	Advances from associated companies	\$3,350,000.00
	Miscellaneous long-term debt	
	Total long-term debt	\$3,350,000.00
Current and Accrued Liab.	Notes payable	
	Accounts payable	
	Notes payable to associated companies	\$ 96,120.45
	Accounts payable to associated companies	
	Dividends declared	
	Matured long-term debt	
	Matured interest	
	Customers' deposits	
	Taxes accrued	53,011.48
	Interest accrued	153,125.26
	Preferred dividends accrued	58,943.05
	Other current and accrued liabilities	6,092.32
	Total current and accrued liabilities	\$ 369,292.56
Deferred Credits	Unamortized premium on debt	
	Customers' advances for construction	\$ 5,964.99
	Other deferred credits	254.12
	Total deferred credits	\$ 6,219.11
Reserves	Reserve for property retirement	
	Reserve for amortization of limited-term investments	\$ 148,978.01
	Reserve for amortization of utility plant acquisition adjustments	4,081.07
	Reserve for uncollectible accounts	
	Insurance reserve	4,847.84
	Injuries and damages reserve	
	Inventory adjustment reserve	10,641.02
	Other reserves	3,010.83
	Total reserves	966.98
Surplus	Contributions in aid of construction	
	Contra liabilities	
	Capital surplus	\$ 1,770.26
	Earned surplus	
	Total surplus	239,142.93
Totals		\$ 4,188,900.61

STATEMENT OF INCOME
WESTERN IOWA POWER COMPANY
 Month of September, 1948

12 Mos. Ended Curr. Mo.

This Year

Operating revenues		\$1,627,208.10
Total operating revenues		\$1,627,208.10
Oper Rev Ded	Operating expenses	\$1,059,342.98
	Depreciation reserve appropriation	
	Amort. of limited term investments	1,560.00
	Amort. of elect plant acquia adjmts	
	Retirement reserve appropriation	96,000.00
	Payments in lieu of taxes	199,181.48
Total operating revenue deductions		\$1,356,084.46
Net Operating Revenues		\$ 271,123.64
Total Operating Income		\$ 271,123.64
Other Income	Interest revenues	\$ 582.37
	Misc. non-operating revenues	
	Non-operating revenue deductions	
Total other income		\$ 582.37
Gross Income		\$ 271,706.01
Income Deductions	Interest on revenue bonds	
	Interest on other long term debt	\$ 128,875.01
	Other interest charges	2,864.59
	Int. charged to construction—Cr.	1,400.34
	Miscellaneous amortization	
	Miscellaneous income deductions	1,330.75
	Amort of debt discount & expense	136.08
Total income deductions		\$ 131,806.09
Net Income		\$ 139,899.92
Disc. reservations of net income		
Balance ffd. to earned surplus		\$ 139,899.92

STATEMENT OF EARNED SURPLUS

Balance transferred from income acct.	\$ 139,899.92
Misc. reservations of surplus	
Balance	\$ 139,899.92
Miscellaneous credits	
Total Miscellaneous Credits	
Miscellaneous debits	
Total Miscellaneous Debits	
Net adjustments—Cr.	
Net additions to earned surplus	\$ 139,899.92
Earned surplus—Beginning of period	99,243.61
Earned surplus—End of period	\$ 239,142.93

Tracts and Parcels of Land Owned by Western Iowa Power Company

- (1) The East 25 feet 10 inches of Lots Seven and Eight (7 and 8) in Block Five (5) in the City of Glenwood, Mills County, Iowa, according to the recorded plat thereof, being a part of the Southwest Quarter (SW $\frac{1}{4}$) of Section Twelve (12) in Township Seventy-two (72) North of Range Forty-three (43) West of the Fifth P.M., Mills County, Iowa.
- (2) Lot Twelve (12) and the West one-half of Lot Thirteen (13) all in Block Six (6) of Bayliss First Addition of Council Bluffs, Pottawattamie County, Iowa.
- (3) Lots Twenty-two (22), Twenty-three (23), Twenty-four (24), and Twenty-five (25), all in Block Two (2) Evans Bridge Addition to the City of Council Bluffs, Pottawattamie County, Iowa.
- (4) Lots One (1) and Twenty-one (21) in Block Four (4) in Howard's Addition to the City of Council Bluffs, Pottawattamie County, Iowa.
- (5) Lots Six (6) and Seven (7), Norgaard's Addition to the City of Council Bluffs, Pottawattamie County, Iowa.
- (6) Lots Seven (7), Eight (8), Nine (9), and Ten (10), in Block Fifteen (15), Beer's Addition to the City of Council Bluffs, Pottawattamie County, Iowa.
- (7) Beginning at a point 1147.8 feet East and 502.8 feet North of the Southwest corner of the Southeast Quarter of Section Twenty-three (23), Township Seventy-five (75) North, Range Forty-four (44) West (which point coincides with the point at which the East line of North 15th Street intersects the North line of the railroad right-of-way commonly called Omaha Bridge & Terminal Railroad and owned or controlled by Illinois Central Railroad), running thence North along the East line of North 15th Street 160 feet, thence 90° East 257 feet to a point of intersection with the northerly line of said railroad right-of-way, thence in a southwesterly direction along the northerly line of said right-of-way to the point of beginning, containing in all one-half acre of land, more or less, in Pottawattamie County, Iowa.
- (8) The following described premises located in Pottawattamie County, Iowa: A tract of land in the Southeast Quarter of the Northwest Quarter of Section Eight, Township Seventy-four (74), Range Forty-three (43) (SE $\frac{1}{4}$ NW $\frac{1}{4}$ 8-74-43) described as follows: Commencing at a point in the center of public highway 747 feet south and 435 feet east of the Northwest corner thereof and running thence West to a point on the West line of said 40 acre tract 747 feet south of the Northwest corner thereof, thence North 100 feet, thence East to the center of the highway, thence Southeasterly along the center of the highway to place of beginning, subject to the public highway rights.

- (9) The following described premises situated in the City of Council Bluffs, Pottawattamie County, Iowa:

A strip of ground one hundred (100) feet in width by one hundred and fifty (150) feet in length in the least dimension, lying west of and abutting upon Nathan P. Dodge Boulevard, at the intersection of the westerly line of said boulevard and the center line of Ninth Avenue in said City produced westward; said tract of land being more particularly described as follows: Commencing at the intersection of the center line of Ninth Avenue produced, and the westerly line of Dodge Boulevard in Government Lot 3, Section 33, Township 75, Range 44, West of the 5th P.M. and in the City of Council Bluffs, and running thence, south easterly along the above described westerly line 114.3 feet; thence, west parallel to the center line of Ninth Avenue produced, 150 feet; thence in a north westerly direction parallel to the westerly line of the above mentioned Dodge Boulevard 114.3 feet; thence easterly 150 feet to the westerly line of Dodge Boulevard, to the place of beginning. (The deed to Citizen's Gas & Electric Company contains the following reservation:

"This conveyance is made to the grantee for the erection and maintenance of a tower and equipment for support of wires and transmission of electric current and upon permanent abandonment is to revert to the grantors, successors and assigns.")

- (10) The following described premises, situated in the County of Pottawattamie and State of Iowa:

The Northerly Twenty feet of the North-east quarter of the North-west quarter of Section 25, Township 75, Range 44, subject, however, to the following reservations and limitations: Said strip of land is to be used by the grantee for the erection and maintenance of transmission line for electric current. Grantors reserve for themselves, heirs and grantees, the right to cross said strip of ground with streets, avenues and alleys which may hereafter be laid out as such and to dedicate said strip for its entirety as a street, avenue or alley or part thereof, all without expense to the grantors, heirs and assigns. The grantee, its successors and assigns, shall not erect or maintain a pole within fifty feet of the center of the present driveway across said strip of land known as Lincoln Drive. The grantee, its successors and assigns shall conform to the statutes of the State of Iowa and Ordinance of the City of Council Bluffs now existing or hereafter enacted, regulating the location and maintenance of said transmission line and poles thereof along or across the public streets, avenues or driveways that may hereafter be established, in conformity with the reservations herein made.

(This deed is unrecorded.)

FRANCHISES

City or Town	Ordinance No.	Date Passed	Date Accepted by Company	Term
Council Bluffs, Iowa	2552	10-1-1923		25 Yrs.
Glenwood, Iowa	179	8-9-1929		25 Yrs.
McClelland, Iowa	24	3-3-1924	4-10-1924	25 Yrs.
Silver City, Iowa	68	8-1-1938		25 Yrs.
Treynor, Iowa	53	10-21-1947	1-16-1948	25 Yrs.
Underwood, Iowa	40	1-19-1925	3-20-1925	25 Yrs.

**ELECTRIC SERVICE CONTRACTS NOT INCLUDED IN
PUBLISHED RATE SCHEDULES****Iowa State School Pump at Pacific Junction**

Contract signed 1943.

3 year contract, automatically renewable from year to year unless cancelled by one year's notice of either party.

120/240 volt single phase

240 volt three phase

Co-owns and maintains all transformers, meters and other equipment on Company side of point of delivery.

Monthly rate

\$75.00 for first 50 kilowatts or less of maximum demand, including the use of 1000 kilowatt-hours.

\$ 1.50 per kilowatt for all additional kilowatts of maximum demand, which \$1.50 shall include the use of 20 kilowatt-hours, plus

1.25c per kilowatt-hour for the next 200 kilowatt-hours per kilowatt of maximum demand, and

1.00c per kilowatt-hour for all additional kilowatt-hours.

The energy charge is subject to changes in the cost of coal to the Company.

Minimum charge: The demand charge, but not less than \$75.00.

Maximum demand—the highest 15-minute integrated kilowatt demand for the month, but not less than the highest 15-minute demand established during the preceding 11 months, and in no case less than 50 kilowatts.

Glenwood State School, Glenwood, Iowa

Contract signed 1943.

3 years, automatically renewable unless cancelled by one years notice by either party.

Three phase 2400 volt.

Billed under published Rate GCB, but with special standby minimum of \$2.00 per kilowatt of standby capacity.

Standby capacity for any month shall be the highest 15-minute kilowatt demand as shown by the Company's demand meter, for such month, but not less than the highest 15-minute kilowatt demand during the preceding 11 months, and in no case less than 65 kilowatts.

Iowa State Conservation Commission**Water Pumping—Lake Manawa**

Contract signed August 27, 1946

5 years, automatically renewable unless cancelled by one year's notice of either party.

440 volt service

Iowa State Conservation Commission**Water Pumping—Lake Manawa**
(Continued)**Rate** (for each pumping location)

- 5¢ per kilowatt-hour for first 15 kilowatt-hours per horsepower of connected load,
- 3¢ per kilowatt-hour for the next 20 kilowatt-hours per horsepower of connected load.
- 1¢ per kilowatt-hour for all additional kilowatt-hours.
- Minimum monthly charge \$3.00 per horsepower of connected load for each well.

Special

Consumer advanced \$2,277.00, the cost of installation. If service continues for 5 years and the revenue derived by the Company is not less than \$4,000.00 per year, and if Consumer agrees to renew contract for an additional 5 years, the \$2,277.00 plus interest at 4% per year will be refunded.

City of Council Bluffs—Street Lighting

Contract signed January 11, 1937.

5 years, or until modified by mutual agreement.

Method No. 1—\$15.00 per year per lamp

Method No. 2— 31.00 per year per lamp

Method No. 3— 36.00 per year per lamp

Method No. 4— 22.00 per year per lamp

Provides that the Company will accept the sum of money available under the levies then made in full and complete satisfaction for the services contemplated by the Contract during any fiscal year. So long as cost of service exceeds revenues available the City agrees not to require additional or more expensive street lighting.

City of Council Bluffs—(U. S. Gov't.—Pumping)

Contract signed November 29, 1948.

May be cancelled on 10 days' notice.

2 locations—

1. Foot of 6th Avenue and Dodge Park

2. Foot of Avenue "C".

480 volt 3¢

Rate

2¢ per kilowatt-hour.

\$10.00 per location, minimum bill.

OTHER CONTRACTS

- (1) Omaha Public Power District—Agreement for furnishing materials and supplies, management, engineering and accounting services, etc.—Cancellable
- (2) Samardick & Company—Armored Car Service, cancellable on 30 days notice—\$35. per month.
- (3) Midland Tree Experts—Tree trimming service cancellable on 30 days notice.
- (4) Nebraska Power Company—Power Contract, this also provides for a one-mill per kilowatt-hour compensation for each of the total kilowatt-hours of electric energy transmitted and delivered by Western Iowa Power Company to the Iowa Power and Light Company during each month. Cancelled by Exhibit E.

UNEXPIRED LEASES**Western Iowa Power Company Lessee**

- * (1) Property—Electric Building—Council Bluffs, Iowa
Lessor—Fred Rapp
Term—January 1, 1945 to December 31, 1954
Rental—\$250 per month
- * (2) Property—Garage and Storeroom—612 South Main Street, Council Bluffs, Iowa
Lessor—Marjorie Droge
Term—October 1, 1947 to October 1, 1952.
Rental—\$140 per month
- (3) Property—Pole Yard—Second Avenue and 19th St., Council Bluffs, Iowa
Lessor—Joyce Lumber & Supply Co.
Term—March 1, 1931 to February 29, 1934—Apparently Tenancy at will.
Rental—\$100 Quarterly
- (4) Property—Electric Shop and Office—Part of Lot 3 and 4, Block 19, Glenwood, Ia.
Lessor—Ed. Marshall
Term—February 1, 1939 to February 1, 1944, Renewable annually at option of lessee. Cancellable by giving 3 months notice prior to annual renewal date.
Rental—\$70 per month

* Indicates Non Cancellable.

UNEXPIRED LEASES—(Continued)

- (5) Property—Electric Shop and Office—Lot 9 Block 6, Underwood, Iowa
Lessor—A. O. Wyland
Term—June 30, 1942 to June 30, 1947—Apparently Tenancy at will.
Rental—\$15 per month
- * (6) Property—Regulator Station Site (Not in use)—Part of Lot 7, Block 73, Glenwood, Iowa
Lessor—Trinity Lutheran Church of Glenwood, Iowa
Term—February 1, 1948 to January 31, 1951
Rental—\$75 per term
- (7) Miscellaneous easements, railroad crossings and right-of-way agreements, joint pole usage agreements, etc.
- Western Iowa Power Company Lessor**
- (1) Property—Special 460 Volt Service at Customers Substation
Lessor—Farm Crops Processing Corporation
Term—5 years beginning January 1, 1944 and from year to year thereafter
Cancellable upon 30 days notice prior to any extension date.
Rental—\$23.90 per month

- (2) Miscellaneous cancellable leases for unused portion of substation site, etc.

* Indicates non-cancellable leases

CERTIFICATE

STATE OF NEBRASKA }
COUNTY OF DOUGLAS } ss.

I, W. W. WENSTRAND, do hereby certify that I am Assistant Secretary of Omaha Electric Committee, Inc., a Nebraska corporation, and that said corporation is the direct owner of all of the Common Stock of Western Iowa Power Company, an Iowa corporation.

I further certify that on February 11, 1949, there was no litigation pending to which Western Iowa Power Company, or which, to the knowledge of Omaha Electric Committee, Inc., is threatened against Western Iowa Power Company.

IN WITNESS WHEREOF, I have signed this certificate as Assistant Secretary of Omaha Electric Committee, Inc. and have affixed its corporate seal this 11th day of February, 1949.

(CORPORATE SEAL)

W. W. WENSTRAND

ELECTRIC POWER AND ENERGY CONTRACT
between
OMAHA PUBLIC POWER DISTRICT
and
IOWA POWER AND LIGHT COMPANY

THIS CONTRACT, made this 11th day of February, 1949, by and between the Omaha Public Power District, with its principal office in the City of Omaha, Nebraska, (hereinafter called the "District") party of the first part, and the Iowa Power and Light Company, an Iowa Corporation, with its principal office in the City of Des Moines, Iowa, (hereinafter called the "Customer") party of the second part:

WITNESSETH

WHEREAS, the Customer is now being supplied with electric service by the District under a contract dated June 28, 1926, originally entered into between the Nebraska Power Company and the Nebraska Gas and Electric Company, which contract has been assigned to the Omaha Public Power District and the Iowa Power and Light Company; and

WHEREAS, the District is now supplying electric service to the Western Iowa Power Company under a contract dated November 30, 1946; and

WHEREAS, the Customer has contracted for the purchase of the Western Iowa Power Company; and

WHEREAS, it is desirable, if the Customer purchases Western Iowa Power Company, to replace the present contract between Omaha Public Power District and Iowa Power and Light Company, and also the contract between Omaha Public Power District and Western Iowa Power Company, with one contract;

NOW THEREFORE, in consideration of the premises and their mutual covenants and agreements expressed herein, the party of the first part and the party of the second part hereby agree as follows:

ARTICLE I

1. The District agrees to supply and sell to the Customer, and the Customer agrees to take and pay for electric power and energy (hereinafter sometimes referred to as "electric service") required by the Customer, of the character and under the conditions hereinafter specified, for a period of five (5) years from the date of acquisition of the Western Iowa Power Company by the Iowa Power and Light Company.

2. This contract shall become effective upon the date on which Iowa Power and Light Company shall acquire all the outstanding stock and bonds of Western Iowa Power Company; provided, that if such acqui-

sition has not been consummated by July 1, 1949, either party hereto may cancel and terminate this contract by giving written notice thereof to the other party prior to the effective date of this contract.

3. Upon becoming effective as provided above, this contract shall supersede the existing power purchase contracts referred to in the preamble hereof.

4. In case this contract becomes effective at any other time than the beginning of a month, the demand charges and the hours use in the rate section shall be prorated.

5. This contract will continue in effect after the five (5) year period unless and until cancelled by two (2) years' written notice given by either party to the other, which notice may be given at or at any time after the end of the third (3rd) year of said five (5) year period.

6. The term of this contract as hereinafter referred to shall mean the period up to the expiration of the two (2) years' notice period above.

ARTICLE II

1. The electric power and energy to be supplied hereunder shall be of the character commonly known as three (3) phase, alternating current, at a frequency of approximately sixty (60) cycles per second, and shall be delivered to the transmission and distribution system of the Iowa Power and Light Company existing in southwestern Iowa. The system will include the present transmission and distribution systems of the Western Iowa Power Company and of the Southwest Division of the Iowa Power and Light Company.

2. The electric power and energy shall be delivered to the Customer at two (2) points:

(a) **Jones Street Delivery Point.** One point of delivery, hereinafter referred to as Jones Street Delivery Point, shall be located at or near the District's steam electric generating station at 4th and Jones Street, Omaha, Nebraska. Electric service delivered at this point will be at approximately 13,800 volts, and the meters for measuring such electric service will be located in the generating station of the District.

(b) **Plattsmouth Delivery Point.** The second point of delivery, hereinafter referred to as the Plattsmouth Delivery Point, shall be located at a point near the city limits of Plattsmouth, Nebraska, which point is the same delivery point at which energy has been delivered to the Customer under the contract existing since June, 1926. The electric service delivered and metered at this point will be at approximately 69,000 volts.

3. The District will deliver electric power and energy hereunder at a rate of supply as may be required by the Customer up to but not in excess of 35,000 kilowatts, provided that the rate of supply at the Plattsmouth Delivery Point, except in abnormal conditions, shall not exceed 15,000 kilowatts.

It is further agreed by the parties hereto that if the requirements of the Customer exceed the practical capabilities of the facilities between the delivery points and the Customer's load, the District and the Customer will work out the most economical method of increasing the capabilities of such facilities even if this entails another delivery point, but in no case shall such additional delivery point be located outside the territory served by the District. If this requires construction expenditures by the District and this construction is made by the District, the Customer will pay the District for the balance of the contract period 8% annually, including depreciation of 3%, on the investment which it makes. At the end of the contract period the Customer agrees to pay the District the depreciated cost of such installation and the Customer shall have the right to remove and own such facilities.

ARTICLE III

On or before the fifteenth (15th) day of each calendar month, the Customer will pay to the District for electric service rendered hereunder during the preceding month, a sum equivalent to—

A. Demand Charge

For the first 5,000 kw or less of maximum co-incidental demand per month—\$7,500.00.

For all over 5,000 kw of co-incidental maximum demand in the same month—\$1.50 per kw.

B. Energy Charge

For the energy received at the Jones Street Station delivery point;

For the first 130 hours use per kw of the portion of the co-incidental demand that is assigned to the Jones Street delivery point per month—.5c per kwh.

For energy received at the Plattsmouth delivery point;

For the first 130 hours use per kw of co-incidental demand that is assigned to the Plattsmouth delivery point per month—.6c per kwh.

All additional kilowatt-hours during the same month—.4c per kwh.

Note: The co-incidental demands will be assigned to Jones Street and Plattsmouth in proportion to the maximum demands actually taken at those points during the peak period.

C. A production cost adjustment determined as follows:

Whenever the District's "cost of energy production" per kilowatt-hour, determined as hereinafter provided, for the month preceding the month for which a bill is being calculated hereunder, shall be greater than 3.7 mills per kilowatt-hour, there shall be added to the sum of the charges provided in A and B

above, an amount which shall be equal to "the number of kilowatt-hours delivered by the District to the Customer during such month" multiplied by "the difference between the 'cost of energy production' per kilowatt-hour for such month and 3.7 mills per kilowatt-hour"; and whenever the "cost of energy production" shall be less than 3.7 mills per kilowatt-hour, there shall be deducted from the sum aforesaid, an amount determined in a like manner.

Cost of energy production

The "cost of energy production" for the purposes hereof shall include:

- (a) The total production costs of the generating plants of the District less the cost of production of steam in such plants, for sale as steam;
- (b) The energy components of payments by the District for power and energy purchased from others; and
- (c) The energy components of payments by the District for power and energy under the interchange contracts;

But shall exclude:

- (d) Any contract power, demand or similar components of payments by the District for power and energy purchased from others; and
- (e) Amounts paid or received by the District for reserve capacity or received for reserve energy under interchange contracts providing for such charges.

Cost of energy production per kilowatt-hour

The "cost of energy production" per kilowatt-hour for the purposes hereof shall be the amount as above determined divided by 95% of the sum of the net kilowatt-hour output of the District's plants and the kilowatt-hours of energy received from others.

Determination of Demand

The Customer's maximum demand for billing purposes under this contract for any month shall be the highest 60-minute integrated coincidental kilowatt demand of the Customer during such month, but not less than 90% of the highest demand so determined for the preceding eleven (11) months; except that the Customer's maximum demand for billing purposes may be reduced if the Customer gives the District twelve (12) months' notice in writing stating the amount of reduction; provided that,

- (1) The total of such reductions in the twelve (12) consecutive months following the expiration of any twelve (12) months' notice period shall not exceed 25% of the billing demand in effect during the twelfth (12th) month of such notice period.

- (2) The Customer's billing demand shall never be less than 50% of the greatest billing demand previously established.
- (3) The Customer's billing demand shall never be less than 5,000 kilowatts.

Power Factor Correction

If at any time the Customer's co-incidental demand in kilovolt-amperes should be such that 80% of such demand shall exceed co-incidental maximum demand in kilowatts as above determined, the District at its option may use 80% of the maximum co-incidental kilovolt-ampere demand in lieu of the maximum demand in kilowatts for the purpose of this contract.

ARTICLE IV

1. Within ten (10) days after the end of each month, the District shall render bills to the Customer for electric service supplied to the Customer during such month. Payments for such service shall be made when due and without deduction. In case of dispute as to the amount due, the bill rendered by the District shall be paid in full, subject to later adjustment as to the amounts in dispute. Interest at the rate of 5% per annum will be charged on all overdue accounts.

2. If the Customer shall be or become in default hereunder for a period of fifteen (15) days, in respect to payment for electric service, the District, at its option, may immediately discontinue such service during the continuance of any such default; provided, in the event that any such default shall continue for sixty (60) days after written notice from the District to the Customer of such default, the District, at its option, may thereafter terminate this contract at any time.

3. All claims or counter-claims arising under this contract, which either party hereto may have against the other, shall be made to the other party in writing on or before the last day of the calendar month following the calendar month in which such claims arise.

ARTICLE V

1. The amount of electric power and energy delivered hereunder shall be measured by means of recording or other standard types of electric meters, installed and maintained by the District at a point to be mutually agreed upon. Both parties shall have the right at all times of ingress to and egress from the premises where such meters are located, and shall have access to the records made by such meters. When any records or readings for billing purposes are taken from watt-hour meters or other meters not bearing automatically drawn or printed records, the District, upon request of the Customer, shall notify the Customer when such records are to be taken, so that the Customer, if it so desires, may have representatives present to check such records or readings. The District, at the request of the Customer,

will make available to the Customer such records for at least the preceding thirteen (13) months.

2. The District will test its meters at intervals of not to exceed six (6) months, and on request of the Customer will make special tests. If any routine or special test shall show the inaccuracy of the meters or instruments to exceed 2% either way, the District will repair and make good such meters or shall substitute new ones therefor, and a suitable adjustment shall be made in the amount billed to the Customer; provided the account between the parties hereunder for electric service theretofore supplied shall not be changed or disturbed for a period in excess of the elapsed period of the month in which the error is discovered and for the previous three (3) months' period.

ARTICLE VI

1. The District will endeavor to supply, but does not guarantee, uninterrupted service. The District shall not be liable for any damage or loss, direct or indirect, that may be occasioned to the Customer or to any other persons, corporations, or property by any failure or interruption in the delivery of electric service hereunder, or for any injury or loss, direct or indirect, to the Customer or to any other persons, corporations, or property, that may be occasioned by any break, accident, or damage to any machinery, equipment, or buildings, when such failure or break, accident, or damage is caused by unavoidable accident, flood, fire, tornado, or other wind storm, explosion, strike, riot, war, Act of God, or any other act or thing beyond the District's control.

2. The District will indemnify and save harmless the Customer to the full amount of any and all loss, damage, or expense (including attorney fees) arising from any actual or alleged injury to or death of persons (including employees) or damage to property, due to the installation, operation, or maintenance of the electric generating or transmission systems of the District, or occasioned by electric power and energy while passing thereover on the District's side of the points of delivery above described, however caused, unless such loss, damage, or expense is due to the sole negligence of the Customer (in which event there shall be no indemnification by the District) or is due to the joint or concurrent negligence of the District and the Customer (in which latter event the indemnification by the District shall be for one-half ($\frac{1}{2}$) the amount of such loss, damage or expense, including attorney fees).

3. The Customer will indemnify and save harmless the District to the full amount of any and all loss, damage, or expense (including attorney fees) arising from any actual or alleged injury to or death of persons (including employees) or damage to property due to the installation or operation of the electric or other equipment of the Customer, or occasioned by electric power and energy while passing thereover on the Customer's side of the points of delivery above described, however caused, unless such loss, damage, or expense is due

to the sole negligence of the District (in which event there shall be no indemnification by the Customer) or is due to the joint or concurrent negligence of the Customer and the District (in which latter event the indemnification by the Customer shall be for one-half (1/2) the amount of such loss, damage, or expense, including attorney fees).

ARTICLE VII

1. If it becomes necessary to interrupt service for the purpose of maintenance, repair, replacement or other similar good cause, the District, after twelve (12) hours' notice given to the Customer of the necessity for such interruption to service, may make such interruption; provided, such repair or other work shall be undertaken at times least inconvenient to and, insofar as practicable, agreed to by the Customer.

2. In times of emergency, for the preservation of life or property, the District, without notice, may discontinue service during such emergency; but such service shall be restored as soon as practicable after such emergency has ceased to exist. In case of shortage of power District will only curtail or interrupt service to the Customer in the same proportion that it interrupts or curtails service to other firm customers.

ARTICLE VIII

1. This contract shall be assignable by either party without the consent of the other party.

2. The several provisions of this contract are not intended to and shall not create rights of any character whatsoever in favor of any persons or companies other than the two parties to this contract, and the obligations herein assumed are solely for the use and benefit of the two parties to this contract.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized officers.

(CORPORATE SEAL)

OMAHA PUBLIC POWER DISTRICT

Attest:

T. F. HANLEY
*Asst. Secretary*By J. M. HARDING
President

(CORPORATE SEAL)

IOWA POWER AND LIGHT COMPANY

Attest:

L. E. SLADE
*Secretary*By C. A. LELAND
President

APPENDIX I

POWER CONTRACT
BETWEEN NEBRASKA POWER COMPANY
AND WESTERN IOWA POWER COMPANY

On this 30th day of November, 1946, the Nebraska Power Company, a Maine corporation (hereinafter called the "Company"), party of the first part, and the Western Iowa Power Company, an Iowa corporation (hereinafter called the "Customer"), party of the second part, enter into the following contract:

ARTICLE I

The Company will supply and the Customer will take and pay for all the electric power and energy (hereinafter sometimes referred to as "electric service"), required by the Customer, of the character and under the conditions hereinafter specified for a period of five (5) years from and after November 30, 1946, and thereafter unless and until cancelled by two (2) years' written notice given by either party to the other.

The term of this contract as hereinafter sometimes referred to shall be construed to mean the time elapsed between November 30, 1946, and the last day of any such two (2) year notice.

ARTICLE II

The electric power and energy to be supplied hereunder shall be of the character commonly known as three (3) phase, alternating current, of a frequency of approximately sixty (60) cycles per second, and a voltage of approximately 13,800 volts.

Such power and energy will be delivered to the Customer at or near the Company's steam electric generating station at 4th and Jones Street, Omaha, Nebraska which point shall hereinafter sometimes be referred to as the "Customer's point of delivery."

The Company will deliver electric service hereunder at any rate of supply required by the Customer not in excess of 20,000 kilowatts.

ARTICLE III

The Company is under contract to supply certain electric power and energy to the Iowa Power and Light Company at a point north of the north city limits of Council Bluffs, Iowa (hereinafter sometimes referred to as the "Iowa point of delivery"), the performance of which contract necessitates the transmission of such power and energy from the Company's generating plant in Omaha, Nebraska, to the said Iowa point of delivery, over the lines of the Customer.

The Company will deliver to the Customer, at the Customer's point of delivery, the above described power and energy, together with the power and energy requirements of the Customer. The Customer will transmit

the power and energy of the Iowa Power and Light Company from the Customer's point of delivery to the Iowa point of delivery above described, during the term of this contract, under the conditions provided in Article V.

For the purposes of this contract, energy delivered to the Customer shall be the total energy delivered at the Customer's point of delivery minus the energy delivered by the Customer at the Iowa point of delivery.

ARTICLE IV

On or before the fifteenth (15th) day of each calendar month, the Customer will pay to the Company for electric service rendered hereunder during the preceding month, a sum equivalent to -

A. A demand charge of:

\$7,500.00 for the first 5,000 kilowatts or less of maximum demand;

\$ 1.50 for all additional kilowatts of maximum demand.

B. An energy charge of:

6 mills per kilowatt-hour for the first 100 kilowatt-hours per month per kilowatt of maximum demand;

4 mills per kilowatt-hour for all additional kilowatt-hours.

C. A production cost adjustment determined as follows:

Whenever the Company's "cost of energy production" per kilowatt-hour, determined as hereinafter provided, for the month preceding the month for which a bill is being calculated hereunder, shall be greater than 3.7 mills per kilowatt-hour, there shall be added to the sum of the charges provided in A and B above, an amount which shall be equal to "the number of kilowatt-hours delivered by the Company to the Customer during such month" multiplied by "the difference between the 'cost of energy production' per kilowatt-hour for such month and 3.7 mills per kilowatt-hour"; and whenever the "cost of energy production" shall be less than 3.7 mills per kilowatt-hour, there shall be deducted from the sum aforesaid, an amount determined in a like manner.

Cost of energy production

The "cost of energy production" for the purposes hereof shall include:

- (1) The total production costs of the generating plants of the Company less the cost of production of steam in such plants, for sale as steam;

- (2) The energy components of payments by the Company for power and energy purchased from others; and
- (3) The energy components of payments by the Company for power and energy under interchange contracts;

But shall exclude:

- (4) Any contract power, demand or similar components of payments by the Company for power and energy purchased from others; and
- (5) Amounts paid or received by the Company for reserve capacity or received for reserve energy under interchange contracts providing for such charges; and

Cost of energy production per kilowatt-hour

The "cost of energy production" per kilowatt-hour for the purposes hereof shall be the amount as above determined divided by ninety-five per cent (95%) of the sum of the net kilowatt-hour output of the Company's plants and the kilowatt-hours of energy received from others.

Maximum demand

The total demand of the power delivered to the Customer, for the Customer and for the Iowa Power and Light Company, as described in Article III, shall be measured at the Customer's point of delivery (or at the point of metering if such point shall be mutually agreed upon), and the demand of the power delivered to the Iowa Power and Light Company by the Customer shall be measured coincidentally at the Iowa point of delivery.

The Customer's demand for any fifteen (15) minute period shall be the total fifteen (15) minute demand of the power supplied at the Customer's point of delivery (or point of metering) minus one hundred five per cent (105%) of the coincidental fifteen (15) minute demand at the Iowa point of delivery.

The Customer's maximum demand for the purposes of this contract, for any month, shall be the average of the four (4) highest fifteen (15) minute integrated kilowatt demands of the Customer during such month, as above determined, but not less than the highest demand so determined for the preceding eleven (11) months, nor in any case less than five thousand (5,000) kilowatts; provided,

Power factor correction

If at any time the Customer's demand in kilovolt-amperes shall

be such that eighty per cent (80%) of such demand shall exceed the maximum demand in kilowatts, as above determined, the Company, at its option, may use eighty per cent (80%) of the maximum kilovolt-ampere demand in lieu of the maximum demand in kilowatts.

ARTICLE V

To compensate the Customer for the transmission of electric power and energy to the Iowa Power and Light Company as described in Article III, during any month, the Company will deduct from the Customer's bill for such month, determined in accordance with the provisions of Article IV hereof, an amount which shall equal one (1) mill per kilowatt-hour for each of the total kilowatt-hours of electric energy transmitted and delivered by the Customer to the Iowa Power and Light Company during such month.

ARTICLE VI

Within ten (10) days after the end of each month, the Company shall render bills to the Customer for electric service supplied to the Customer during such month. Payments for such service shall be made when due and without deduction. In case of dispute as to the amount due, the bill rendered by the Company shall be paid in full, subject to later adjustment as to the amounts in dispute. Interest at the rate of five per cent (5%) per annum will be charged on all overdue accounts.

If the Customer shall be or become in default hereunder for a period of fifteen (15) days, in respect to payment for electric service, the Company, at its option, may immediately discontinue such service during the continuance of any such default; provided, in the event any such default shall continue for sixty (60) days after written notice from the Company to the Customer of such default, the Company, at its option, may thereafter terminate this contract at any time.

All claims or counter-claims arising under this contract, which either party hereto may have against the other, shall be made to the other party in writing on or before the last day of the calendar month following the calendar month in which such claims arise.

ARTICLE VII

The amount of electric power and energy delivered hereunder shall be measured by means of recording or other standard types of electric meters, installed and maintained by the Company at a point to be mutually agreed upon. Both parties shall have the right at all times of ingress to and egress from the premises where such meters are located, and shall have access to the records made by such meters. When any records or readings for billing purposes are taken from watt-hour meters or other meters not bearing automatically drawn or printed records, the Company, upon request of the Customer, shall notify the Customer when such records are to be

taken, so that the Customer, if it so desires, may have representations present to check such records or readings. The Company, at the request of the Customer, will make available to the Customer such records for at least the preceding thirteen (13) months.

The Company will test its meters at intervals of not to exceed six (6) months, and on request of the Customer will make special tests. If any routine or special test shall show the inaccuracy of the meters or instruments to exceed two per cent (2%) either way, the Company will repair and make good such meters or shall substitute new ones therefor, and a suitable adjustment shall be made in the amount billed to the Customer; provided, the account between the parties hereunder for electric service theretofore supplied shall not be changed or disturbed for a period in excess of the elapsed period of the month in which the error is discovered and for the previous month.

ARTICLE VIII

The Company will endeavor to supply, but does not guarantee, uninterrupted service. The Company shall not be liable for any damage or loss, direct or indirect, that may be occasioned to the Customer or to any other persons, corporations, or property by any failure or interruption in the delivery of electric service hereunder, or for any injury or loss, direct or indirect, to the Customer or to any other persons, corporations, or property, that may be occasioned by any break, accident, or damage to any machinery, equipment, or buildings, when such failure or break, accident, or damage is caused by unavoidable accident, flood, fire, tornado, or other wind storm, explosion, strike, riot, war, Act of God, or any other act or thing beyond the Company's control.

The Company will indemnify and save harmless the Customer to the full amount of any and all loss, damage, or expense (including attorney fees) arising from any actual or alleged injury to or death of persons (including employees) or damage to property, due to the installation, operation, or maintenance of the electric generating or transmission systems of the Company, or occasioned by electric power and energy while passing thereover on the Company's side of the point of delivery above described, however caused, unless such loss, damage, or expense is due to the sole negligence of the Customer (in which event there shall be no indemnification by the Company) or is due to the joint or concurrent negligence of the Company and the Customer (in which latter event the indemnification by the Company shall be for one-half the amount of such loss, damage or expense, including attorney fees).

The Customer will indemnify and save harmless the Company to the full amount of any and all loss, damage, or expense (including attorney fees) arising from any actual or alleged injury to or death of persons (including employees) or damage to property due to the installation or operation of the electric or other equipment of the Customer, or occasioned by electric power and energy while passing thereover on the

Customer's side of the point of delivery above described, however caused, unless such loss, damage, or expense is due to the sole negligence of the Company (in which event there shall be no indemnification by the Customer) or is due to the joint or concurrent negligence of the Customer and the Company (in which latter event the indemnification by the Customer shall be for one-half the amount of such loss, damage, or expense, including attorney fees).

ARTICLE IX

If it becomes necessary to interrupt service for the purpose of maintenance, repair, replacement or other similar good cause, the Company, after twelve (12) hours' notice given to the Customer of the necessity for such interruption to service, may make such interruption; provided, such repair or other work shall be undertaken at times least inconvenient to and, insofar as practicable, agreed to by the Customer.

In times of emergency, for the preservation of life or property, the Company, without notice, may discontinue service during such emergency; but such service shall be restored as soon as practicable after such emergency has ceased to exist.

ARTICLE X

This contract shall be assignable by either party without the consent of the other party.

The several provisions of this contract are not intended to and shall not create rights of any character whatsoever in favor of any persons or companies other than the two parties to this contract, and the obligations herein assumed are solely for the use and benefit of the two parties to this contract.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized officers.

NEBRASKA POWER COMPANY

ATTEST:

(Signed) T. H. Wasmmer
Chairman of the Board

(Signed) W W WENSTRAND

Secretary

WESTERN IOWA POWER COMPANY

ATTEST:

(Signed) SIDNEY J. COLLINGHAM
President

(Signed) BERNARD R STONE

Secretary

November 26, 1948

Mr. C. A. Leland
President
Iowa Power and Light Company
312 Sixth Avenue
Des Moines 3, Iowa

Dear Sir:

In Re: Council Bluffs Gas Company

Pursuant to your request, we have examined the records pertaining to Council Bluffs Gas Company in the office of the Secretary of State of the State of Iowa. Our investigation reveals that said company is a Delaware corporation, its Certificate of Incorporation having been filed in that state on April 14, 1928. Its principal office in the state of Iowa is located at 29 South Main, Council Bluffs, Iowa. It is authorized by its Certificate of Incorporation to engage in the business of a gas utility company and in affairs incident thereto; however, it is not specifically authorized to operate as an electric utility company, and it would presumably be necessary for it to amend its Certificate of Incorporation before so doing.

The earliest filings of this company with the Secretary of State of Iowa appear to have emanated from New York City, as the statements were notarized there. Subsequent filings indicate that at least as late as April, 1941, certain financial matters of the corporation were handled from Dallas, Texas, according to notarial acknowledgements referring to the signatures of D. L. Cobb, Vice-President, (November, 1938) and of T. J. Uhl, Secretary, (November, 1938 and April, 1941). In January, 1943 Fred A. Grosser and W. C. Inman were President and Secretary respectively of the company. Mr. Grosser's signature was notarized in Chicago. In June, 1943 John Nuveen, Jr. and Raymond Smith were respectively President and Secretary and Mr. Nuveen's signature was notarized in Chicago. Later filings refer to Carl Stephens as President of the company.

On March 28, 1946, Council Bluffs Gas Company amended

November 26, 1948

its Certificate of Incorporation to provide for an authorized capital stock of 20,000 shares divided into 6,500 shares of 4% cumulative preferred stock (par value \$100) and 13,500 shares of common stock (par value \$25). The amendment reclassified the 3,200 outstanding shares of \$100 par value common stock into common stock having a \$25 par value, thus effecting a four-for-one split of the shares, indicating that 12,800 shares of the new common stock were outstanding after the amendment. The amendment also provided that no more than 6,320 shares of the preferred stock should be issued except upon compliance with certain conditions respecting the amount of the corporation's earnings available for dividends. These figures would indicate a maximum paid in capital at the time of the amendment of \$952,000. The Certificate of Amendment states that it was consented to by the holders of all of the outstanding capital stock of the company.

The company has filed with the Secretary of State an application, dated July 13, 1948, to renew its permit to transact business in the state of Iowa. The application states that the total authorized par value of the corporation's capital stock was \$987,500, and that the total paid-up capital was \$950,000. It further stated that the total value of the corporation's assets was \$3,400,000 and gave the value of its assets used in Iowa at the same figure. The certificate of the Secretary of State of the State of Delaware, attached to said application, indicates that there were no amendments to the company's Certificate of Incorporation between April 1, 1946 and August 2, 1948, and no amendments subsequent to the amendment hereinabove referred to appear in the files of the Secretary of State of Iowa.

The records available at the office of the Secretary of State contain no information as to the bonded indebtedness of the company and do not indicate the names of the owners of its capital stock. If the corporation has bonds outstanding pursuant to an indenture of mortgage, the terms of the same could no doubt be obtained from the office of the Recorder of Pottawattamie County, Iowa. The names of the stockholders of the company are presumably not a matter of public record, Delaware law requiring only that such lists be made available for the inspection of the stockholders of the company.

Very truly yours,

GAMBLE, READ, HOWLAND, GAMBLE & RIEPE

By

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